

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 MAGUEL ANGEL FERNANDEZ CRESPO,

12 Petitioner,

13 vs.

14 ROBIN BAKER, Field Office Director, San
15 Diego District, United States Bureau of
16 Immigration and Customs Enforcement
17 (ICE); JOHN MORTON, Assistant Secretary,
18 ICE; JANET NAPOLITANO, Secretary,
Department of Homeland Security; ERIC
HOLDER, United States Attorney General;
and KENNETH SMITH, Assistant Field
Office Director, San Diego District, ICE,

19 Respondents.
20

CASE NO. 11-cv-3019-IEG (WMC)
ORDER GRANTING IN PART
APPLICATION FOR ISSUANCE OF
ORDER TO SHOW CAUSE

[Doc. No. 3].

21 Presently before the Court is Petitioner Miguel Angel Fernandez Crespo's petition for writ
22 of habeas corpus under 28 U.S.C. § 2241, [Doc. No. 1], and his application for issuance of an
23 order to show cause pursuant to 28 U.S.C. § 2243, [Doc. No. 3].

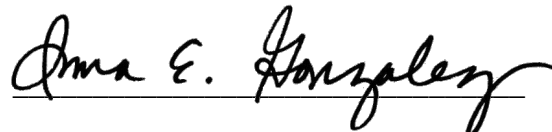
24 Petitioner, pointing to the text of 28 U.S.C. § 2243, seeks an order directing Respondents to
25 file a return within three days of this order and a hearing within five days of Respondents' filing of
26 the return. However, the district court may apply the Federal Rules Governing Section 2254 Cases
27 (the "Habeas Rules") to proceedings brought under § 2241. *See* Habeas Rule 1(b). Pursuant to
28 Habeas Rule 4, unless the petition is summarily dismissed, the Court must "order the respondent to

1 file an answer, motion, or other response within a fixed time.” Habeas Rule 4. The Court has
2 considerable discretion in setting appropriate deadlines in habeas proceedings. *See Clutchette v.*
3 *Rushen*, 770 F.2d 1469, 1474 (9th Cir. 1985).

4 Accordingly, Petitioner’s application for issuance of an order to show cause is **GRANTED**
5 **IN PART**. [Doc. No. 3.] The Court **ORDERS** Respondents to show cause why the petition
6 should not be granted. Respondents shall file and personally serve their return **within 28 days** of
7 the filing of this order. Petitioner may file a traverse **no later than 14 days** following the filing of
8 Respondents’ return. Unless the Court orders otherwise, the matter will be taken under submission
9 and decided without oral argument pursuant to Civil Local Rule 7.1(d)(1).

10 **IT IS SO ORDERED.**

11 **Date: December 29, 2011**

A handwritten signature in black ink, reading "Irma E. Gonzalez", written over a horizontal line.

IRMA E. GONZALEZ, Chief Judge
United States District Court